IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISIDICTION

WRIT PETITION NO.10374 OF 2004

Sau.Kaushabai Dinkar Shinde
& Anr. ..Petitioner

Vs.

Shri.Bhikaji Fakina Shinde
& Ors. ..Respondents

....

Mr.P.H.Joshi for Petitioners

....

CORAM : B.H.MARLAPALLE,J.

DATE : FEBRUARY 23,2005

P.C.:

1. Heard Mr.Joshi, the learned counsel for the Petitioners. In R.C.S.No. 402 of 1998 an application Exh. 93 came to be filed for amendment and the same has been rejected by the learned Jt.C.J.J.D. at Nasik by his order dated 13.9.2004. Hence, this petition under Article 227 of the Constitution of India.

2. The reasoning given by the Court below in rejecting the application and more particularly the lack of better particulars cannot be termed as perverse or grossly erroneous. The suit has been pending from 1998 onwards and the date of alienation was not stated in the application. The suit is for

injunction simplicitor and declaration regarding the alleged encroachment on the suit land. An application for appointment of Court Commissioner was also filed at Exh.84 and it was rejected on 14.10.2003. Under the circumstances, there is no case made out to interfere with the impugned order.

3. Hence, the petition is rejected summarily. However, if a fresh application providing all the details is submitted within two weeks from today, the trial Court may consider the same on its own merits. Writ to go to the trial Court forthwith.

[B.H.MARLAPALLE,J.]